

Connecticut Office of Consumer Counsel

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OCC NEWSLETTER



JEWETT CITY WATER COMPANY

On September 22, 2006, the Jewett City Water Company ("JCWC") filed an application for a rate increase of \$233,588 or approximately 19.81% over present rates. JCWC's rate application proposed a phase-in of increases in public fire protection charges, with public fire protection being raised by 2% to 8% of the allowed total revenues. This was the first JCWC rate increase request in seven years.

After completing its detailed review of the application and an accounting and financial audit of the JCWC's books and records, OCC entered into settlement negotiations with JCWC. On December 7, 2006, JCWC and OCC filed a Settlement Agreement that resulted in a rate increase of \$140,760 or 11.93% above current levels.

The Settlement Agreement reduced JCWC's requested return on equity from 12.9% to 10.4% and included adjustments that reduced operating and maintenance expenses by approximately \$19,000. This included adjustments to inflation, gasoline, electricity, uncollectible accounts and outside services.

The Department of Public Utility Control (DPUC) approved the Settlement Agreement on February 16, 2007.

YANKEE GAS RATE CASE

On December 29, 2006, Yankee Gas Services Company ("Yankee Gas") filed an application for an increase in rates of approximately \$37.2 million or 8.4% above current rates. The application proposed to recover through base rates approximately \$67.8 million in additional revenues needed to recover the costs for the new Liquefied Natural Gas ("LNG") facility and for the increased costs of providing distribution delivery service. However, the projected annual net revenue increase of \$37.2 million is substantially lower due to expected commodity and pipeline-related savings.

The LNG rate mitigation plan is estimated to provide \$26.5 million of savings from the following sources:

- Canadian Gas Supply Contracts \$ 8.0 million,
- Termination of Peaking Services \$15.1 million,
- Off-System Sales \$ 0.3 million,
- Peaking Services to Marketers \$ 1.6 million,
- Winter Period Supply \$ 1.5 million.

The current status of the case is:

- all testimony has been filed,
- all interrogatories have been submitted and answered, and
- all hearings, including late filed hearings,

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have been completed and filed.

On April 10, 2007, Yankee Gas filed a motion to suspend the briefing schedule for two weeks to allow settlement discussions to take place. All parties have joined together and support this request. The motion was granted by the DPUC on April 12, 2007.

CONNECTICUT WATER COMPANY

In July 2006, the Connecticut Water Company ("CWC") filed an application for a 30% rate increase with the DPUC, after having gone 16 years without a change in rates. CWC cited several reasons for this large increase: mainly cost of living increases over the last 16 years and the addition of \$130 million worth of infrastructure improvements.

The DPUC, OCC, and the Attorney General's ("AG") Office actively participated in the hearing process. Following the conclusion of hearings, the OCC, the AG and the Prosecutorial Department of the DPUC began negotiations in an attempt to find an equitable balance for ratepayers and CWC.

The negotiations resulted in an increase of approximately 22% which will be phased in over a 15 month period. The negotiating parties believed this was fair. It provided fair compensation to CWC and reasonable rates to CWC customers, but not all at once. The effective date for the increase was December 20, 2006.

BIRMINGHAM UTILITIES, INC.

Birmingham Utilities, Inc. ("Birmingham") filed an application for a rate increase of approximately 34.5 % in May 2006 with the DPUC. Birmingham stated that it needed additional revenues due to increasing operating expenses, along with significant capital expenditures, which had occurred in its Eastern division.

After a full review of Birmingham's records, which included auditing Birmingham's books by both the DPUC and the OCC, and hearings at both the DPUC office and at the town halls where Birmingham operates, the DPUC approved an increase of approximately 18%, a significant reduction from the Birmingham's original rate request.

CONNECTICUT NATURAL GAS CORPORATION RATE CASE SETTLEMENT

On March 14, 2007, the DPUC rendered a decision in Docket No. 06-03-04PH01, *Application of Connecticut Natural Gas Corporation for a Rate Increase – Revenue Requirements*. The decision is a culmination of good faith negotiations between the OCC and the Connecticut Natural Gas Corporation ("CNG"). As a result of the aggressively negotiated settlement, expenses that are normally spent during a rate case were saved by ratepayers.

Earlier, on March 21, 2006, the DPUC issued a directive to CNG to file a general rate case. CNG had not filed for rate relief for the past six years. On September 29, 2006, CNG filed an application that would provide a return on rate base of 11% and an

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increase in revenues of \$28.2 million, or approximately 7.9% of present revenues. As a result of the successful settlement agreement, CNG was awarded a \$14.4 million or 4.0 % increase, and a return on rate base of 10.1%. Since the settlement only affects the distribution portion of a customer's gas bill, the actual CNG customer's bill will increase less than 4%.

VOICE YOUR OPINION ON UTILITY ISSUES: TESTIFY AT DPUC PUBLIC HEARINGS!

Are you frustrated by rising utility rates? Do you feel that your opinion does not count with state regulators and policymakers? Is there a forum where you can make your voice heard? There is! You have the right to comment on how regulated utility companies conduct their business, and comment on the policies that impact your utility bills. You can testify at DPUC public hearings. As the DPUC states on its website: "Our Commissioners and Hearing Officers are interested in the issue of customer service, and we encourage customers of regulated utility companies to let us know their feelings. If you have an opinion about the matter being considered, we would like to hear from you."

Every public hearing at the DPUC begins with the presiding commissioner's question: "Are there any members of the public here today who would like to participate in public comment?" If there are no volunteers, the Commissioner states, "Seeing none....". The hearing continues with the participation by attorneys, utility company staff, expert

witnesses and staff of the DPUC, OCC, and the AG's Office. OCC staffers, some of whom have over 20 years experience in the hearing rooms, report seeing no more than a handful of ratepayers speaking at these public hearings. Ratepayers need to take advantage of this forum, and allow their voices to be heard by the people whose decisions impact their wallets.

How can you find out when a hearing will be held about an issue or a company procedure that affects you? You can check the DPUC website where hearing schedules are posted. Go to <http://www.state.ct.us/dpuc> and click on "News and Events." Scroll down to the bottom of the page and click on "Daily Hearing Schedules." Links will appear for about 5 dates. You can click on any of the dates, and the schedule for each date will appear with the docket number assigned to a case, a description of the case (a rate hearing, a land sale, etc.), the time of the hearing and the location at the DPUC (usually Hearing Rooms 1 or 2).

The public can easily follow the progress of a case by reading docket information online at the DPUC website: <http://www.state.ct.us/dpuc>, clicking on "Docket Databases," then "Active Database," then following the instructions for searching this database to obtain information on a specific docket (if you have a docket number), or cases involving a specific utility company.

How can you be part of the DPUC hearing process? Again, the DPUC advises ratepayers on its website: "Just come to the hearing and express your views. Plan to arrive a few minutes early so that you can sign up with the DPUC Consumer

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Representative or other Department representative to speak at the hearing.” Directions to the DPUC are on its website’s first page. You can park in the parking garage behind the building, on floors 1, 3 and 4.

Go to <http://www.state.ct.us/dpuc/consumer>, click on “Public Hearing Schedule,” which will bring you to the DPUC’s “Guide to Public Hearings.” If you have any questions, call the DPUC located in New Britain, CT at (860) 827-1553. We’ll see you in the hearing rooms!

IMPACT OF RECENT EVENTS ON LONG-TERM ELECTRICITY PLANNING & RETAIL CHOICE

Whether you are a Connecticut Light and Power (CL&P) customer or a United Illuminating (UI) customer, you have recently seen sizable increases in your bills. You may have also seen State and national discussions about climate change and greenhouse gas emissions, electricity and fuel conservation, the possible national renaissance of nuclear power (discussed in a recent 60 Minutes episode) and other topics. These topics are all policy-laden and relate closely to electric infrastructure choices.

For example, the State has signed on with the Regional Greenhouse Gas Initiative (RGGI), which, if fully implemented (as appears likely), will mandate reductions in greenhouse gas emissions, including from power plants. Meeting the targets will impact power plant development choices. Meanwhile, the State and the New England region appear to be approaching a power plant capacity crisis. A lack of sufficient

power plant capacity would likely lead to both reliability problems and a further electricity price crisis.

➤ **Connecticut is Properly Restoring Long-Term Electricity Planning**

Because of these large-scale policy issues, the State Legislature is considering various proposals. As has already been stated in previous articles in OCC newsletters, OCC supports a return to some utility-owned generation (power plant ownership by CL&P and UI), which, importantly, returns some state regulatory oversight over the cost of generation. Others support long-term contracts with power plant owners, without allowing CL&P and UI back into the generation business. Regardless of their view on that topic, most seem to support more robust planning efforts to make sure we meet RGGI and other renewable energy mandates, while also ensuring that we have reliable power at a reasonable price.

So, there seems to be a general recognition that we need to make long-term arrangements to meet our electricity needs in a way that is environmentally and economically responsible. The flip side of that coin would suggest that there should also be general recognition that we as a State are not continuing to rely on the ISO New England market signals to bring Connecticut the power plants it needs and wants. The truth is that market signals are not leading to the development of the power plants we need, will not likely bring fuel diversity among power plants and will not likely help us meet our renewable mandates. Because of the large-scale nature of power

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plant development and the broad impacts of power plant site decisions, it is inevitable that government, in conjunction with CL&P and UI, power plant owners, environmental groups, business groups, etc., will need to actively plan for our power needs. There is a whole lot more to power plant development decisions than simple, "Economics 101" slogans about supply and demand.

➤ **Long-Term Planning and Retail Choice Don't Mix**

Given the above, there appears to be some cognitive dissonance around the concept of retail choice, particularly residential retail choice. Recall that "retail choice" means that a customer can leave CL&P or UI's standard service and receive generation service from an alternative supplier like Constellation, Dominion Retail, etc. (CL&P and UI continue to do the distribution service when a customer chooses a retail supplier.) Proponents of residential retail choice are still aiming to push customers onto retail suppliers based on the promise of short-term savings. However, among the other problems with residential retail choice, including slamming (unauthorized switching of customers), the reversal of savings based on "the fine print," etc., is the problem that retail choice does not fit together well with long-term planning. Long-term planning, long-term contracting, utility-owned generation, and other similar arrangements require a large, stable base of customers to be effective. For example, if CL&P is to enter into a long-term contract with the XYZ Company that will enable XYZ to build a power plant, XYZ will want to know which CL&P customers are going to pay for

that contract. The right answer is that all of CL&P's customers should pay a fair share for the contract because they all benefit.

However, OCC is already hearing some retail suppliers balking at paying for such arrangements. Ignoring the physical reality of a unitary system, the retail suppliers want to treat their customers separately, and have such customers only pay for the retail supplier's own planning efforts. This approach would frustrate the state-wide planning efforts that we need to perform, and would create the reliability and price crises referred to above. Retail suppliers would benefit—they always do when prices for CL&P and UI customers go up. But the State would suffer enormously if we do not plan to meet our electricity needs. Failure to plan well in advance would be tantamount to planning for a failed electric system. Relying on retail suppliers or power plant owners to do our electric system planning for us has already been disastrous (Connecticut has the highest electric prices in the continental United States!) and could soon become downright dangerous.

➤ **Support House Bill 7098 – Contact Your State Legislators!**

So, in light of the above, what should you, the consumer, do next? OCC strongly suggests that you call your state legislators and ask them to support House Bill 7098, *An Act Concerning Connecticut's Energy Future*. This bill would create the needed, robust planning efforts that Connecticut needs to take to ensure reliable power at a reasonable price, including a return of some state control through utility-owned generation.

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DPUC PROPERLY ASSERTS ITS AUTHORITY AND OBLIGATION TO REGULATE THE PRACTICES OF TELECOMMUNICATIONS CARRIERS, INCLUDING LAWS RELATING TO CUSTOMER PRIVACY

It is impossible to have missed the repeated stories coming out of Washington, D.C. concerning federal agencies failing to abide by state and federal laws protecting the privacy of Americans. As readers of the OCC's newsletter know, the OCC has been deeply involved in the case of the National Security Agency illegally examining the telephone records of consumers in Connecticut. Following the arguments of the OCC and the American Civil Liberties Union, the DPUC has recently asserted its authority to press forward in a full examination of the facts surrounding the divulging by the telephone companies of personal calling information to agencies of the federal executive branch.

The OCC's point has been all along that national security is, of course, of paramount concern to all citizens, and remains a basic function of the federal government. That said, there exist federal laws designed over many decades to balance the interests of the federal government in accomplishing the protection of the nation with the rights of all individuals to their privacy. By the simple expedient of requesting authority from a secret federal court designed for the purpose, the federal agencies have nearly a 100% success rate in obtaining the right to examine information, such as they requested in Connecticut in the past few years. Thus, they can easily accomplish their goals, legally, and have no excuse for

circumventing the established legal process.

As a customer representative agency of the state of Connecticut, the OCC argued against the U.S. Department of Justice in federal court in Miami. The OCC has repeatedly argued in state and federal courts in Connecticut over the past year that while it remains to be seen whether personal telephone records constitute a useful anti-terror tool, consumers will not condone the federal government requesting information under false pretenses and proceeding with total disregard for the relevant laws in place to protect all U.S. citizens. Furthermore, the telephone companies knew what was happening, and participated in these unwarranted and unauthorized invasions of Americans' privacy, in direct violation of state laws and DPUC regulations. Indeed, this is also in violation of its own published privacy policies.

The OCC believes that the DPUC should conduct a full investigation, and invite public comment on the ACLU-CT's proposed regulations. The OCC has argued from the start of this case that the DPUC is the single authority, under state law, to enforce and protect the privacy rights of Connecticut's telecommunications customers. Only by a full investigation of this case can Connecticut's customers be assured that their privacy interests are being protected to every extent possible.

OCC TRYING TO HELP BRING FAIR VIDEO COMPETITION TO CONSUMERS

While the OCC awaits the decision of a federal judge in *OCC v. AT&T* which will decide whether the DPUC's unfortunate

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decision to completely UNregulate the video services offered by the telephone company violates federal law, the Connecticut General Assembly has begun to examine a proposed statute to override the DPUC's decision. The OCC has long encouraged competition in cable services to lower prices, and make programming more receptive to consumers' interests. However, the DPUC's decision to fail to regulate the phone companies, and, thus, "UNleveling the playing field," can only wreak havoc on the entire market for video. This will ultimately fail to create real competition in Connecticut.

AT&T has attempted to insert tax relief for its own purposes in this bill by demanding that its video provision be taxed on the basis of income, not property taxes, as its telephone assets have been for decades. Many municipalities have testified at the legislature that they receive virtually no property taxes from the telephone company. This is because the majority of local equipment is fully depreciated, and, thus, its taxable book value is often zero. As a result, this yields little or no tax income to the towns. The amendment proposed by the telephone company to separate its new video services to income taxation is clever, because all the new equipment needed to provide video would raise the amount of property taxes that would be paid. However, the phone company will not have a large income for several years, as its service rolls out. That proposal has landed the proposed legislation before the Finance Committee where it will probably spark some controversy, since Connecticut towns will once again lose out on needed income. The OCC does not believe that our state's municipalities should subsidize the rollout of

video services of the telephone company, and, accordingly, opposes the proposed tax change.

Finally, the OCC is not necessarily thrilled with the proposed legislation, since it allows for customer discrimination on the grounds of other than income (which the OCC believes itself violates federal laws preventing "redlining", which is the practice of refusing to provide service in a geographical area that is perceived to be of a higher risk). It may well drive community access programming and other local programming right out of business. The OCC will carefully monitor the progress of this bill, and will make every attempt to make certain that the voice of consumers has an advocate at the table when this bill is debated and voted upon later this spring.

The bottom line is that the OCC believes that AT&T should be encouraged to enter the video market in Connecticut, but on a level playing with the existing cable operators. Only in this way will public policy goals remain fulfilled by all players in the market, with equal benefits and burdens imposed by existing state and federal laws, resulting in a responsive and vibrant competitive market for video services.

STAFF UPDATES

Peter Shanley is our new Utility Finance Specialist. He brings about twenty five (25) years of electric and gas utility experience to our office, having worked for Northeast Utilities Service Company and Yankee Gas Services Company. At these companies he worked in the areas of engineering and finance. Peter has a mechanical engineering

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degree from Worcester Polytechnic Institute and an MBA in Management and Finance Degree from Rensselaer Polytechnic Institute.

Victoria Hackett is our new Staff Attorney. She joined the OCC in August 2006. For the four years prior to joining the OCC, Victoria practiced in private firms in Hartford and New Haven, as a commercial/general practice litigator. At the same time, she also represented children pro bono through Lawyers for Children America. Victoria graduated from The University of

Virginia School of Law (J.D., 2002) and Western Connecticut State University (B.A. in Sociology/Anthropology, 1999).

Margaret Bain is our new Associate Rates Specialist. She joins us after more than six years at the Department of Public Utility Control, where she worked in the telecommunications and natural gas units. In addition to working in the regulatory field, she also has corporate experience in the telecommunications field. Margaret is a graduate of the University of Connecticut.



The State of Connecticut's Office of Consumer Counsel, located at Ten Franklin Square, New Britain, Connecticut 06051, is an independent state agency authorized by statute to act as the advocate for consumer interests in all matters which may affect Connecticut consumers with respect to public service companies, electric suppliers and persons, and certified intrastate telecommunications service providers.

The Office of Consumer Counsel is authorized to appear in and participate in any regulatory or judicial proceedings, federal or state, in which such interests of Connecticut consumers may be involved, or in which matters affecting utility services rendered or to be rendered in this state may be involved.